



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/904,371      | 07/11/2001  | Siegfried Luft       | 04906.P038          | 1379             |

7590

06/16/2005

Andre M. Gibbs  
Blakely, Sokoloff, Taylor & Zafman LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1030

EXAMINER

CHANG, JUNGWON

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/904,371

Applicant(s)

LUFT ET AL.

Examiner

Jungwon Chang

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 14-18, 23-32 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-18, 23-32 and 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/11/01</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 11-13, 19-22 and 33-35 have been canceled. Claims 1-10, 14-18, 23-32, and 36-40 are presented for examination.
2. The drawings were received on 1/04/2002. These drawings are acceptable.
3. Claim 6 is objected to because claim 6 is duplicated with claim 1. Appropriate correction is required.
4. Claim 10 is objected to because claim 10 is improperly dependent on claim 1. The words "said database" recited in claim 10 are not found in claim 1. Appropriate correction is required.
5. Claim 28 is objected to because claim 28 is duplicated with claim 23. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2154

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-10, 14-18, 23-32, and 36-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Rostowfske et al. (US 6,735,717), hereinafter Rostowfske, in view of Hara et al. (US 6,738,812), hereinafter Hara.

8. As to claim 1, Rostowfske discloses the invention as claimed, including a network management system (col. 3, lines 40-59) comprising:

a plurality of element management servers (22, 32, fig. 1) to manage a set of network elements (14, 16, fig. 1; col. 8, lines 43-65), one of said plurality of element management servers to be designated as the master server (primary server, 22, fig. 1); and

a peered service resident on each of said plurality of element management servers to handle a request from a client (42-48, fig. 1) (col. 3, lines 44-59; col. 4, lines 22-53).

9. Rostowfske discloses said master server to determine a system configuration setting (col. 5, lines 21-39). However, Rostowfske does not specifically disclose said master server to determine which of said plurality of element management servers to manage each of said set of one or more network elements. Hara discloses master server to determine which of said plurality of element management servers to manage each of said set of one or more network elements (col. 5, lines 41-53; col. 7, lines 5-54; col. 2, lines 31-50). It would have been obvious to one of ordinary skill in the art at the

Art Unit: 2154

time the invention was made to combine the teachings of Rostowfske and Hara because Hara's determining which servers manages each of the network elements would improve the reliability by continuously providing available network element to a client even in the event of a server failure.

10. As to claim 2, Rostowfske discloses a federated service, said federated service, said federated service to access data stored in a element management server memory, said element management server memory includes data to describe each of said set of network elements to be managed by each of said plurality of element management servers (26, 36, 24, 34, fig. 1; col. 4, lines 22-53; col. 5, lines 21-39; col. 9, lines 1-17).

11. As to claims 3 and 5, Rostowfske discloses where said federated service to access nodal alarm data in said element management server memory (event of failure; col. 4, lines 22-53; col. 5, lines 21-39; col. 9, lines 1-17).

12. As to claim 4, Rostowfske discloses federated service to provide data to a data store (26, 36, 24, 34, fig. 1; col. 4, lines 22-53; col. 5, lines 21-39; col. 9, lines 1-17).

13. As to claim 6, it is rejected for the same reasons set forth in claim 1 above.

14. As to claims 7 and 8, Rostowfske discloses determining which of said plurality of element management servers is designated as said master server (primary server, 22,

fig. 1). However, Rostowfske does not specifically disclose determining with a bully algorithm which of said plurality of element management servers is designated as said master server. Hara discloses determining with a bully algorithm which of said plurality of element management servers is designated as said master server (col. 4, lines 1-16; col. 6, lines 1-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rostowfske and Hara because Hara's algorithm to determine the master server would allow system administrator to properly configure for the server.

15. As to claims 9 and 14, Rostowfske discloses where said peered service resident on said plurality of element management servers to access a database to handle said request (col. 3, lines 44-59; col. 4, lines 22-53).

16. As to claim 10, it is rejected for the same reasons set forth in claim 5 above.

17. As to claims 15 and 17, Rostowfske discloses where said client to randomly access a peered service on said plurality of element management servers (col. 3, lines 44-59; col. 4, lines 22-53).

18. As to claims 16 and 18, Rostowfske discloses where said client to generate a view of said set of network elements and said plurality of element management servers from data stored in said element management server memory or database (col. 4, lines

Art Unit: 2154

54-65).

19. As to claim 23, it is rejected for the same reasons set forth in claim 1 above. In addition, Rostowfske discloses a machine-readable machine that provides instruction, which when executed by a set of one or more processors (col. 3, line 60 – col. 4, line 21; col. 7, lines 46-61; col. 10, lines 7-18).

20. As to claim 24, it is rejected for the same reasons set forth in claim 2 above.

21. As to claims 25 and 27, they are rejected for the same reasons set forth in claims 3 and 5 above.

22. As to claim 26, it is rejected for the same reasons set forth in claim 4 above.

23. As to claim 28, it is rejected for the same reasons set forth in claim 6 above.

24. As to claims 29 and 30, they are rejected for the same reasons set forth in claims 6 and 7 above.

25. As to claim 31, it is rejected for the same reasons set forth in claims 9 and 14 above.

26. As to claim 32, it is rejected for the same reasons set forth in claim 5 above.

27. As to claim 36, it is rejected for the same reasons set forth in claims 9 and 14 above.

28. As to claim 37, it is rejected for the same reasons set forth in claims 15 and 17 above.

29. As to claims 38 and 40, they are rejected for the same reasons set forth in claims 16 and 18 above.

30. As to claim 39, it is rejected for the same reasons set forth in claims 9 and 14 above.

### ***Conclusion***

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Chisholm, patent 6,697,970, Oki et al, patent 6,735,206, Srinivasan et al, 6,304,549, Allen et al, patent 6,804,703, Sreenivasan et al, 2002/0049845, Chrabaszcz et al, 2001/0056554, Kennamer et al, 2002/0133601 disclose a method and system for coordinating high availability system services including a master server to centralized



Art Unit: 2154

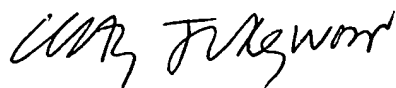
system service.

Ali Raza Butt et al, "Economic Fault-Tolerant Networks", June 2000.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is 571-272-3960. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JWC  
June 10, 2005